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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,000	05/03/2006	Shizuo Manabe	HIR-0037	5200
23353 7590 08/23/2010 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036				
EXAMINER				
WANG, JIN CHENG				
ART UNIT		PAPER NUMBER		
2628				
MAIL DATE		DELIVERY MODE		
08/23/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/578,000

**Applicant(s)**

MANABE, SHIZUO

**Examiner**

JIN-CHENG WANG

**Art Unit**

2628

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1 and 4-10.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Below.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Jin-Cheng Wang/  
Primary Examiner, Art Unit 2628

Continuation of Item 3a and 11:

1) Applicant argues that the features of claim 5 have been wholly incorporated into claim 1. However, Claim 4 depends upon the claim 1 and thus the claim 4 after final amendment is now different from the claim 4 before final rejection. Applicant presented new claim limitations to the claim 4. The Final Office Action only treated the original claim 4. The new claim 4 has been presented in this after-final amendment which would require a new Office Action or further consideration. Therefore, the new claim 4 at least requires further consideration....

2) Applicant argues that the features of claim 10 have been wholly incorporated into claim 6. However, the claim 6 incorporate further limitations in addition to the claim limitations set forth in the original claim 10, in an attempt to address the outstanding 101 rejection in the Final Office Action. The new claim limitation at least require further consideration with regards to the outstanding 101 rejection. Therefore, the claim 10 at least requires further consideration....

3) Applicant argues that the features of claim 10 have been wholly incorporated into claim 6. However, Claims 7-9 depend upon the claim 6 and thus the claims 7-9 after final amendment are now different from the claim 6-9 respectively before final rejection. By the after-final amendment, Applicant presented new claim limitations to the claims 7-9. The Final Office Action only treated the original claims 7-9. The new claims 7-9 have been presented in this after-final amendment which would require a new Office Action or further consideration. The new claims 6-9 have been presented in this after-final amendment. Therefore, they at least requires further consideration....

4) Applicant request a new non-final Office Action based on the AMENDMENT after Final Office Action. This request is not only unreasonable, but also un-justified. Applicant's arguments are flawed.

For the reasons set forth above, the new amendment after final rejection will not be entered.